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HOUSE BILL 705

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

INTRODUCED BY

Thomas C. Taylor

AN ACT

RELATING TO STATE RULES; PROVIDING THAT CERTAIN RULES ARE NOT EFFECTIVE UNTIL MEMBERS OF THE APPROPRIATE LEGISLATIVE COMMITTEE HAVE HAD AN OPPORTUNITY TO REVIEW THE RULES AND, IF A HEARING IS REQUESTED BY A MEMBER ON A RULE, UNTIL THE COMMITTEE HOLDS A PUBLIC HEARING ON THE RULE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 2-3-3 NMSA 1978 (being Laws 1951, Chapter 182, Section 3, as amended) is amended to read:

"2-3-3. LEGISLATIVE COUNCIL--POWERS--DUTIES.--It [~~shall be~~] is the duty of the New Mexico legislative council to:

A. [~~to~~] adopt rules and regulations for the administration of [~~this act~~] Chapter 2, Article 3 NMSA 1978 in the conduct of the affairs of the legislative council service;

B. [~~to~~] formulate policies for the operation and

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1 conduct of the business of the legislative council service and  
2 generally to supervise all of the activities of [~~such~~] the  
3 council service;

4 C. [~~to~~] carry out the purposes of the legislative  
5 council service as hereafter set forth;

6 D. [~~to~~] create committees of legislators to study  
7 major problems during the periods when the legislature is not  
8 in session; provided that:

9 (1) no member of the council shall serve as an  
10 officer or voting member on an interim committee appointed or  
11 created by the council;

12 (2) all committees created by the council  
13 shall terminate on or before December 1 of the year in which  
14 they are created unless the council subsequently extends the  
15 life of the committee for not more than one month;

16 (3) the minority party shall be represented on  
17 all council-created committees in the proportion the minority  
18 party is represented in each house;

19 (4) the relationship of the size of the house  
20 and senate shall be taken into consideration in determining the  
21 number of members from each house appointed to an interim  
22 committee created by the council; and

23 (5) members shall be appointed to council-  
24 created committees by the same appointing authorities that  
25 appoint the council members from each house and subject to the

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1 same recommendations. The council shall name committee  
2 officers from among the committee members so appointed;

3 E. review rules and designate appropriate interim  
4 committees to review rules pursuant to the provisions of  
5 Section 14-4-4.1 NMSA 1978;

6 [~~E.—to~~] F. adopt rules of procedure for all  
7 committees created by the council, including a rule that no  
8 action shall be taken by [~~the~~] a committee if a majority of the  
9 total membership from either house on the committee rejects  
10 such action; provided that no member of the legislature shall  
11 ever be excluded from any meeting of any committee appointed by  
12 the council; and

13 [~~F.—to~~] G. refrain from advocating or opposing the  
14 introduction or passage of legislation."

15 Section 2. A new section of the State Rules Act, Section  
16 14-4-4.1 NMSA 1978, is enacted to read:

17 "14-4-4.1. [NEW MATERIAL] LEGISLATIVE REVIEW OF PROPOSED  
18 RULES.--

19 A. Except as provided in Section 14-4-5.1 NMSA 1978  
20 and Subsections E and F of this section, no rule shall be valid  
21 or enforceable until the procedures required by this section  
22 have been followed.

23 B. Concurrently with the publication of a proposed  
24 rule and prior to any public hearing otherwise required, the  
25 agency proposing to promulgate a rule shall file the proposed

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1 rule with the director of the legislative council service.  
2 Upon receipt of a proposed rule, the director shall forward a  
3 copy of the rule to each member of:

4 (1) the appropriate interim committee  
5 designated by the New Mexico legislative council to receive  
6 rules proposed by that agency; or

7 (2) the New Mexico legislative council if:

8 (a) the term of the interim committee  
9 members has expired and the legislative council has not yet  
10 appointed new members to the interim committee; or

11 (b) the legislative council has not  
12 designated an interim committee to receive rules proposed by  
13 the agency.

14 C. A proposed rule shall be reviewed in a public  
15 hearing before the interim committee or the New Mexico  
16 legislative council if, within thirty days of the filing of the  
17 rule with the director of the legislative council service, a  
18 legislator receiving the proposed rule pursuant to Subsection B  
19 of this section makes a written request for the hearing to the  
20 director and the agency proposing the rule. The hearing shall  
21 be held within sixty days of the request.

22 D. A rule may be filed and published pursuant to  
23 Section 14-4-5 NMSA 1978 and subsequently be valid and  
24 enforceable:

25 (1) if a timely request for a hearing is not

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1 made pursuant to Subsection C of this section; or

2 (2) after a public hearing on the rule by the  
3 appropriate interim committee or the legislative council.

4 E. An emergency rule may take effect without a  
5 prior filing pursuant to Subsection B of this section, but  
6 shall be in effect no longer than thirty days unless a filing  
7 is made pursuant to that subsection. Upon the filing, the  
8 emergency rule may remain in effect but shall otherwise be  
9 subject to the request for hearing and public hearing  
10 provisions of this section.

11 F. The requirements of this section do not apply to  
12 rules promulgated by agencies subject to the Uniform Licensing  
13 Act."

14 Section 3. Section 14-4-5.1 NMSA 1978 (being Laws 1995,  
15 Chapter 110, Section 10) is amended to read:

16 "14-4-5.1. [~~TEMPORARY~~] SAVING PROVISION.--

17 A. Notwithstanding the provisions of [~~Section~~  
18 Sections 14-4-4.1 and 14-4-5 NMSA 1978, rules filed prior to  
19 July 1, 1995 shall continue in effect if such rules were filed  
20 with the [~~state~~] records center in accordance with the law  
21 applicable at the time of filing and they have not otherwise  
22 been repealed, amended or superseded.

23 B. Notwithstanding the provisions of Sections  
24 14-4-4.1 and 14-4-5 NMSA 1978, rules filed on or after July 1,  
25 1995 and prior to July 1, 2005 shall continue in effect if such

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1 rules were filed with the records center and published in  
2 accordance with the law applicable at the time of filing and  
3 they have not otherwise been repealed, amended or superseded."

4 Section 4. EFFECTIVE DATE.--The effective date of the  
5 provisions of this act is July 1, 2005.

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